

March 03, 2022

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

## UNITED STATES DISTRICT COURT

BY: Jennifer Clark

DEPUTY

for the

Western District of Texas

WALD Division

Danielle S Johnson-Oleksiak

Case No. 6:22-CV-235

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Jury Trial: (check one) ☒ Yes ☐ No

Daniel Akers

Chloe Russell

Plains ER Management Harco, Ltd.

Plains ER Management Temple, Ltd.

Defendant(s) "See attached"

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

**COMPLAINT FOR EMPLOYMENT DISCRIMINATION****I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Danielle S Johnson-Oleksiak
Street Address	2410 Flintstone Cir.
City and County	Killeen & Bell County
State and Zip Code	TX 76543
Telephone Number	(516) 967-7618
E-mail Address	D3johnson82@gmail.com

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

**Defendant No. 1**

Name	Plains ER Management Harco, Ltd.
Job or Title <i>(if known)</i>	EXPRESS ER
Street Address	400 Golden Eagle Way
City and County	Liberty Hill & Bell County
State and Zip Code	TX 78642
Telephone Number	254-277-1459
E-mail Address <i>(if known)</i>	

**Defendant No. 2**

Name	Daniel Akers
Job or Title <i>(if known)</i>	General Partner Plains ER Management, Ltd, Chief Medical Doctor
Street Address	
City and County	
State and Zip Code	
Telephone Number	512-635-5364
E-mail Address <i>(if known)</i>	dan@expressemergencyroom.com

**Defendant No. 3**

Name	Chloe Russell
Job or Title <i>(if known)</i>	Facility Administrator
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address <i>(if known)</i>	chloe@expressemergencyroom.com

**Defendant No. 4**

Name	Plains ER Management Temple, Ltd.
Job or Title <i>(if known)</i>	Express ER Temple
Street Address	414 Goodnight Dr.
City and County	Temple
State and Zip Code	TX 78628
Telephone Number	254-282-0516
E-mail Address <i>(if known)</i>	

See Attached

B. The Defendant (s)

Paula Chandler  
Director of Operations  
[paula@expressemergencyroom.com](mailto:paula@expressemergencyroom.com)

Erica Lopez  
Facility Administrator Temple  
254-346-9278

**C. Place of Employment**

The address at which I sought employment or was employed by the defendant(s) is

Name	Plains ER Management Harco, Ltd. / EXPRESS ER
Street Address	980 Knights Way Building 1 ste 100
City and County	Harker Heights & Bell County
State and Zip Code	TX 76548
Telephone Number	254-277-1459

**II. Basis for Jurisdiction**

This action is brought for discrimination in employment pursuant to *(check all that apply)*:



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000c to 2000c-17 (race, color, gender, religion, national origin).

*(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

*(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)*



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

*(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)*



Other federal law *(specify the federal law)*:



Relevant state law *(specify, if known)*:



Relevant city or county law *(specify, if known)*:

**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes *(check all that apply)*:

- ☐ Failure to hire me.
- ☒ Termination of my employment.
- ☐ Failure to promote me.
- ☐ Failure to accommodate my disability.
- ☐ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts *(specify)*: \_\_\_\_\_

*(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)*

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)  
21 September 2021 to present

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C. I believe that defendant(s) *(check one)*:

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my *(check all that apply and explain)*:

- ☒ race \_\_\_\_\_
- ☒ color \_\_\_\_\_
- ☐ gender/sex \_\_\_\_\_
- ☐ religion \_\_\_\_\_
- ☐ national origin \_\_\_\_\_
- ☐ age *(year of birth)* \_\_\_\_\_ *(only when asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)* \_\_\_\_\_

E. The facts of my case are as follows. Attach additional pages if needed.

Plains ER Management Harco, Ltd, Chloe Russell, Paula Chandler, and Daniel Akers, allow COVID positive staff to work due to the lack of available PTO. I reported the misconduct 21 September 2021 and was terminated by Chloe Russell on 22 September 2021. Russell then informed Plains ER Management Temple, Ltd., of my conversation with Dr. Akers and insured I never work at either location again. Daniel Akers and Paula Chandler allowed Erica Lopez and Chloe Russell to wrongfully terminate me. I was terminated from two facilities and two positions.

*(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)*

#### IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)* NOV of 2021 to the present

- B. The Equal Employment Opportunity Commission *(check one)*:

☒

has not issued a Notice of Right to Sue letter.

☐

issued a Notice of Right to Sue letter, which I received on *(date)* \_\_\_\_\_.

*(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)*

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

☐

60 days or more have elapsed.

☐

less than 60 days have elapsed.

#### V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Economic Damages - \$71,721.12 (\$50,160.96 for 3 years of front pay, \$8,360.16 for 6 months of back pay, \$10,800 for 3 years of front pay quarterly bonus, and \$2,400 for 8 months of back pay bonuses.)

Non-Economic Damages - \$500,000 (for my mental and emotional distress, pain and suffering, inconvenience, and loss of enjoyment of life.)

Punitive Damages - \$428,278.88 (for intentional/reckless behavior and actions motivated by malice from the defendants.)

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 03/02/2022

Signature of Plaintiff

Printed Name of Plaintiff

Danielle S Johnson-Oleksiak

### B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

**C. Place of Employment**

The address at which I am employed or was employed by the defendant(s) is

Name	Plains ER Management Harco, Ltd.
Street Address	980 Knights Way building 100 ste 1
City and County	Harker Heights and Bell County
State and Zip Code	TX 76548
Telephone Number	254-277-1459

**II. Basis for Jurisdiction**

This action is brought pursuant to *(check all that apply)*:



Fair Labor Standards Act, as codified, 29 U.S.C. §§ 201 to 209.



Relevant state law



Relevant city or county law

**III. Statement of Claim**

State as briefly as possible the facts of your case. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Nature of employer's business:  
Health Care Facility; Emergency Room

- B. Dates of employment:  
07/22/2021-09/22/2021

- C. Employee's job title and a description of the kind of work done:  
ER Tech and Front Desk Receptionist.

- D. Rate, method, and frequency of wage payment:



My pay rate is \$16.00 an hour and I'm paid by direct deposit bi-weekly.

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E. Number of hours actually worked each week in which a violation is claimed:

During the week of the violation, I worked roughly 15 hours.

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F. Description of the alleged violation(s) *(check all that apply)*:

☐

Failure to pay the minimum wage *(explain)*

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☐

Failure to pay required overtime *(explain)*

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☒

Other violation(s) *(explain)*  
Safety and Health

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G. Date(s) of the alleged violation(s):  
08/01/2021 to present

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H. Additional facts:

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#### IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

Economic Damages - \$71,721.12 (\$50,160.96 for 3 years of front pay, \$8,360.16 for 6 months of back pay, \$10,800 for 3 years of front pay quarterly bonus, and \$2,400 for 8 months of back pay bonuses.)

Non-Economic Damages - \$500,000 (for my mental and emotional distress, pain and suffering, inconvenience, and loss of enjoyment of life.)

Punitive Damages - \$428,278.88 (for intentional/reckless behavior and actions motivated by malice from the defendants.)

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#### V. Certification and Closing

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##### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 03/02/2022

Signature of Plaintiff

Printed Name of Plaintiff

Danielle S Johnson-Oleksiak

##### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

See Attached

B. The Defendant (s)

Paula Chandler  
Director of Operations  
[paula@expressemergencyroom.com](mailto:paula@expressemergencyroom.com)

Erica Lopez  
Facility Administrator Temple  
254-346-9278

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- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
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### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

The events occurred at Plains ER Management Harco, Ltd & Plains ER Management Temple, Ltd.

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- B. What date and approximate time did the events giving rise to your claim(s) occur?  
09/21/2021 approximately 10:00 AM to 09/22/2021.
- 

- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)  
I was wrongfully terminated and retaliated against for reporting a misconduct in the workplace. Daniel Akers and Paula Chandler allowed Erica Lopez and Chloe Russell to terminate me.
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#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

My injuries consist of anxiety, depression, insomnia, shame, embarrassment, headaches and extreme negative impact on my health, weight, self-esteem and self confidence. Medical attention was sought and I'm currently taking medication for these conditions.

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#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Economic Damages - \$71,721.12 (\$50,160.96 for 3 years of front pay, \$8,360.16 for 6 months of back pay, \$10,800 for 3 years of front pay quarterly bonus, and \$2,400 for 8 months of back pay bonuses.)

Non-Economic Damages - \$500,000 (for my mental and emotional distress, pain and suffering, inconvenience, and loss of enjoyment of life.)

Punitive Damages - \$428,278.88 (for intentional/reckless behavior and actions motivated by malice from the defendants.)

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**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act  
Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

EEOC

450-2022-00735

FEPA

**Texas Workforce Commission Civil Rights Division**

and EEOC

*State or local Agency, if any*

Name (indicate Mr., Ms., Mrs.)

Home Phone

Year of Birth

Danielle S. Johnson-oleksiak

(516) 967-7618

Street Address

2410 FLINTSTONE CIR

KILLEEN, TX 76543

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated  
Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

No. Employees, Members

Phone No.

EXPRESS ER

15 - 100 Employees

Street Address

980 knights way

HARKER HEIGHTS, TX 76548

Name

No. Employees, Members

Phone No.

Street Address

**DISCRIMINATION BASED ON**

Retaliation

**DATE(S) DISCRIMINATION TOOK PLACE**

Earliest

Latest

09/21/2021

09/22/2021

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I. PERSONAL HARM: On September 21, 2021, I talked to General partner Danial Akers about the OSHA violation (that there were Covid Positive employees working with Respondent). On September 22, 2022, I was discharged. II. RESPONDENT'S REASON FOR ADVERSE ACTION: No reason was given. III. DISCRIMINATION STATEMENT: I believe I have been discriminated against because of my race (black) and color in violation of Title VII of the Civil Rights Act of 1964, as amended, I also believe I have been retaliated against in violation of Section 704(a) of Title VII of the Civil Rights Act of 1964, as amended.

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Date

Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

**PRIVACY ACT STATEMENT:** Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

#### **NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW**

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

#### **NOTICE OF NON-RETALIATION REQUIREMENTS**

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

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